

Summary Minutes of the
Delta Protection Commission Meeting
Thursday, November 17, 2005

1. Call to Order/Roll Call

Chairman McGowan called the meeting to order at 6:40 p.m.

Present: Chairman McGowan, Vice Chairman Ferguson, Commissioners Beckman, Calone, Curtis, Nottoli, Reagan, Scriven, Shaffer, van Loben Sels and Wilson.

Absent: Commissioners Cabaldon, Johnson, Kelly, Ornellas, Perez, Piepho, Sanders, and Simonsen.

2. Public Comment

Commissioner Calone reported that duck hunters from Liberty Island had been asked by the Department of Fish and Game to remove their hunting blinds and decoys on a daily basis. He said this was an impractical task because hunters must use between 100 and 200 decoys on the island because it is so large. He said he contacted Linda Fiack who spoke with other agencies to resolve the issue. He thanked her, Commissioner Curtis, and Sandra Morey for their efforts in helping to resolve the matter.

Joe DeCruz, Chris DeCruz, Steven Esperson and Harry Bruce, Rio Vista, thanked the Commission, on behalf of themselves and their families, for helping with the hunting opportunity in open water at Liberty Island.

Harry Moore, Stockton commented that the Delta is 15 to 20 feet below sea level and is still sinking about 4 inches per year. He said the Delta has been sinking for many years and each year more water is leaving the Delta than is coming in. He also said that over 5,200 square miles of the Central Valley has subsided in excess of 1 foot, and as much as 31 feet in some areas around Mendota. Mr. Moore stated that the three main problems of the water situation are lack of fresh water flows from the rivers, siltation caused by restricted water flow, and subsidence. He said these are the areas the Commission should work on.

Roberta Goulart, Contra Costa County, announced that she had been asked by Commissioner Piepho to attend meetings in her absence.

3. A. Presentation of Resolution to Commissioner Curtis for His Service and Commitment to the DPC

Chair McGowan announced that this would be Commissioner Curtis' last meeting. He thanked Commissioner Curtis for his time spent on the Commission and presented him with a Resolution of Appreciation.

B. Welcome Sandra Morey as New Commissioner, Representing the Department of Fish and Game

Chair McGowan introduced Sandra Morey as the newest Commissioner. Ms. Morey replaced Commissioner Curtis and currently serves as the Regional Manager of the Sacramento Valley-Central Sierra Region for the Department of Fish and Game. Ms. Morey was then sworn in by Marion Moe, attorney for the California Department of Justice.

4. Approve Minutes of September 22, 2005 Meeting

Commissioner Reagan moved approval of the minutes; Commissioner Shaffer seconded. The minutes were approved unanimously by voice vote.

5. Briefing from George Basye Regarding Delta Flood Protection Fund (SB 264 Proposed Amendment to Water Code Section 12986 and 12987.5)

George Basye, attorney for the California Central Valley Flood Control Association asked that the Commission write a letter to the Governor urging support for the extension of the levee protection program (SB 264), which was developed in 1973 after the 1972 flood in the City of Isleton. The bill provided 75 percent over and above \$1,000 per mile, which the district must absorb from the Flood Protection Fund, and had a sunset date of July 1, 2006. Additionally, a bill introduced by Senator Michael Machado would have extended that date until July 1, 2010; however, the date was amended to July 1, 2008.

Commissioner van Loben Sels asked what was the timeframe for the Commission to send a letter. Mr. Basye responded that since a bill would have to be introduced around December 2005, the matter should be considered urgent in order to be effective. Commissioner van Loben Sels also asked if the Reclamation Districts have been informed of the need to respond. Mr. Basye responded that he would ask the Flood Control Association secretary to spread the word to the Reclamation Districts.

Commissioner Wilson asked if there were any groups opposed to the program. Mr. Basye responded that he did not know.

Chair McGowan asked that Commissioners relay the information to each of their entities.

Mr. Basye also reported that SB 1024 (Torlakson) was designed to cover project and non-project levees; however, present language only covers project levees. He said he has written to Senator Torlakson to support a modification of the bill.

6. Presentation on Proposed Emergency Response Policy for Flooded Islands in the Sacramento-San Joaquin Delta

Les Harder, Acting Deputy Director, Department of Water Resources reported that DWR is proposing an interim policy to clarify its role in reclaiming flooded islands in the Delta. Mr. Harder stated that over the past 100 years there have been 150 levee failures and it has been either the local districts or the Corps of Engineers to reclaim the islands. He said this has changed because many of the local districts cannot get loans; and after 1986 flood, the Corps did not have a compelling interest in reclaiming a flooded island. He said the Jones Tract incident in June 2005 was the defining moment in deciding who would respond to a levee failure.

Mr. Harder said that when Jones Tract flooded, the Corps responded to the emergency, spending \$1-2 million, and adding fill for 2 miles in order to protect adjacent Roberts Island. He said that when approached to reclaim Jones Tract the Corps declined, citing that the emergency stage had passed on Jones Tract as it was already flooded, and it was not their responsibility. As such, the Governor directed DWR to lead the effort to restore the island. Mr. Harder said that DWR has never reclaimed an island, and before Jones Tract, the State would only reclaim an island if it had a compelling interest. He said that DWR was clarifying its position so that if another island flooded in the future, the State would not necessarily be assumed to take the lead in reclaiming the island. He said the State was proposing for time to evaluate the situation in order to make an informed decision in an emergency. He further stated that that if a flood did occur and there was a compelling interest for the State (i.e. water quality, habitat and fisheries, etc.) then the State might participate and share the costs with other entities. He said that DWR is proposing that in the future, the State step forward to stabilize flood emergencies on flooded islands and adjoining islands, in conjunction with the Office of Emergency Services. He said they are looking for funding from the Governor's Office to do so.

Commissioner Wilson asked if there is a criteria by which islands qualify. Mr. Harder responded that any island of substantial size would qualify. He also said that in these types of cases, DWR would coordinate flood response with or without the Corps, they would use State monies, however, there would be a cap on the monies expended.

Commissioner Wilson also asked for clarity as to what entity would step forward to stabilize an emergency and what entity would step forward to stabilize an island. Mr. Harder said that entities must move fast to stabilize the island; however, it could be months, maybe up to a year to reclaim an island.

Commissioner Reagan asked Mr. Harder if he agreed that the displacement of reclaimed islands is what creates the ability for the State and Federal water projects to export water south. He said he was concerned that allowing the loss of reclaimed islands would be risking increased salinity for Contra Costa County and other surrounding areas. Mr. Harder responded that he believed the Delta is a highly altered environment that is used for many beneficiaries, with water exports being one of those beneficiaries. He said that this was true for some of the islands but not for all of them.

7. Approve Letter to Office of the Governor Supporting Efforts to Seek Funding for Delta Flood Protection

Linda Fiack reported that Commission staff, in coordination with the Resources Agency, drafted a letter to the Governor expressing support for the efforts underway to secure State and federal funding for flood management. She said the letter is in follow-up to a letter sent from the Governor to Senator Dianne Feinstein and Congressman Richard Pombo. She asked for Commission support and approval of the letter.

Commissioner Reagan moved approval of the letter to the Governor supporting his efforts to seek funding for Delta flood protection; Commissioner van Loben Sels seconded. Commissioners Morey and Shaffer abstained. The motion was approved by voice vote.

8. CALFED Informational Update

Ron Ott, CALFED staff, updated the Commission:

The Little Hoover Commission held a meeting on November 17th to discuss CALFED governance.

BDPAC Subcommittee and CBDA will meet December 7th and 8th respectively. Discussions for both meetings will center on the 10-year Action Plan; report of the Little Hoover Commission hearings; the Department of Finance's fiscal and performance review; the KPMG review; and, the new Delta vision.

SDIP: EIS/EIR was released November 10th. Statewide informational meetings will take place during December, with public hearings taking place during January 2006. Public comment period begins November 10th and closes February 7, 2006.

Commissioner van Loben Sels said that he would find it helpful to know how many yards of dredging are being moved on the SDIP project and if there is a budget allocation toward maintenance dredging and how much per year.

9. Receive Staff Briefing on Commission Input Provided for Little Hoover Commission (LHC) Review of Bay-Delta Authority CALFED Program

Ms. Fiack reported that Commissioners received the Little Hoover Commission summary of the CALFED program. She also reported that Commission staff responded to and provided information on LHC inquiries regarding indicators in the Delta and programs implemented under the Management Plan. She reported that in addition to the requested information, staff provided the LHC information on the Delta visioning process.

10. A. Receive Update from Delta TMDL Collaborative

Ms. Fiack reported that the Regional Board's Total Maximum Daily Load (TMDL) process was completed for Lake and Yolo counties, and is underway for the Delta. The technical study has been released and staff has formed a collaborative for review and comment. The Regional Board has scheduled its first hearing on November 28th and Commission staff will be testifying at the meeting and presenting a letter outlining its concerns. Ms. Fiack said that since the TMDL process moves quickly, the Commission should appoint an ad hoc committee to testify before the Regional Board and review any letters that will be sent.

B. Appoint Two Commissioners to Delta Mercury Ad Hoc Committee

Chair McGowan suggested that Commissioners Shaffer and Johnson be appointed to the Delta Mercury Ad Hoc Committee.

Commissioner Beckman moved that Commissioners Shaffer and Johnson be appointed to the Delta Mercury Ad Hoc Committee; Commissioner Calone seconded. The motion was approved unanimously.

11. Direct Staff to Provide Letters of Support to Interested Entities, When Timing is Appropriate, for Funding of a Delta-wide Branding Concept to Include Signage and Development of a Vision for Visitor(s) Center Within the Delta

Ms. Fiack reported that Ken Scheidegger, River Boat Marina and Jeff Hart, Hartland Nurseries have asked that the Commission provide a letter to various entities in support of the concept of branding in the Delta. She said that Mr. Scheidegger and Mr. Hart are moving forward to form a 5013c and will use the letter when asking boards and councils for funding for a Delta Visitors' center and signage.

Commissioner Nottoli announced that Sacramento County has committed funding through its Economic Development Department to assist in the effort for the visitors' center and signage. He said he met with Mr. Scheidegger and felt that the project is worthwhile, as it recognizes the importance of the Delta.

Commissioner van Loben Sels stated that at the last Delta Recreation meeting, there was unanimous support for the branding concept. He urged unanimous support from the Commission as well.

Commissioner Reagan stated that three years prior, there was an attempt to brand the Delta as a tourism region. He asked if this proposed branding concept was the same and if so, then the first letter should be sent to Sunne Wright-McPeak, Secretary for the Business, Transportation and Housing Agency. Ms. Fiack responded that she did not know; however, she felt that this program is consistent with the Delta Alliance's concept in promoting development of the Delta beyond signage.

Commissioner van Loben Sels moved that a letter of support to be sent to interested entities for funding of a Delta-wide branding concept, including signage and a visitors center in the Delta; Commissioner Nottoli seconded. The motion was approved unanimously.

12. Approve Resolution in Support of Yolo County Grant Application for Funds from the California River Parkways Grant Program Under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 for Weed Management/Native Plant Landscaping at Clarksburg Public Fishing Access and Boat Launch Ramp, Sacramento River (North Delta)

Linda Fiack reported that Yolo County applied for a grant for the Clarksburg Public Fishing Access and Boat Launch Ramp. The grant will allow Yolo to do native planting and landscaping to prevent runoff and encourage good water quality. Ms. Fiack said that approval of the Resolution is a support only measure, as there is no funding involved.

Commissioner Reagan moved approval of a resolution in support of the Yolo County Grant Application for funding for weed management and native plant landscaping at the Clarksburg Public Fishing Access and Boat Launch Ramp; Commissioner Scriven seconded. The motion was approved unanimously.

13. Authorize Chair of the Commission to Execute Documents, as Determined Necessary, for DPC to Apply (as Applicant, Co-applicant, or Supporter) for Grant Funding Under the CALFED Working Landscapes Grant Program

Ms. Fiack reported that there was an opportunity for the Commission to apply for money through the CALFED Working Landscapes Grant Program. She said the process is very specific in that it lays out the geographical areas. She said the Commission could apply with support from partners such as the RCD, the Nature Conservancy and Ducks Unlimited; or it could apply in a joint application. The Commission's concept would highlight demonstration projects for habitat friendly ag practices, and offer "Delta Days" workshops for education purposes. She announced that the final filing date is December 15th.

Commissioner Wilson moved that the DPC execute documents to apply for grant funding under the CALFED Working Landscapes Grant Program; Commissioner Calone seconded. The motion was approved unanimously.

14. A. Receive Staff Update on Commission Visioning Process

Ms. Fiack reported that a Request for Proposal went out for the visioning process. A contract for \$10,000 was awarded to the Non Profit Resource Center who is subcontracting with Edge Consulting; who in turn, will be conducting Commissioner interviews. Additionally, \$5,000 was awarded to the Capital Public Finance Group who will be focusing on budgetary options.

Ms. Fiack said she had been networking with various agencies and has received positive feedback and support on the Commissions new direction.

Commissioner van Loben Sels stated that he wanted it noted that Senator Machado held a hearing on November 12, 2003, on the past, present, and future of the Commission with a broad group of stakeholders. Ms. Fiack said that the information would be noted.

B. Appoint Chair McGowan and Vice-Chair Ferguson to Serve as Visioning Ad Hoc Committee

Commissioner Wilson moved to appoint Chair McGowan and Vic-Chair Ferguson to serve on the Visioning Ad Hoc Committee; Commissioner Calone seconded. The motion was approved unanimously.

15. Approve Schedule for Regular Meetings in 2006

Ms. Fiack asked that the regular meeting schedule for 2006 be approved. She noted that because of costs, the meetings will be held at the Walnut Grove Presbyterian Church instead of Jean Harvie.

Commissioner Wilson noted that the March 24, 2006 date should be changed to reflect March 23, 2006.

Commissioner Wilson moved approval of the 2006 meeting schedule; Vice-Chair Ferguson seconded. The motion was approved unanimously.

16. Executive Director's Report

Ms. Fiack reported that she has been doing quite a bit of networking, including attending meetings with the Secretary for Resources, the Legislature and locals in an attempt to let them know of the "new era" of the Commission and its accomplishments. She said the meetings have been met with favorable responses.

Ms. Fiack announced that the BCP for \$30,000 has been approved by the Department of Finance and will be sent to the Governor for approval. She also noted that staff time for work on the Delta RCD will be reimbursed.

Ms. Fiack has met with Sandy Cooney, Deputy Director for the Secretary of Resources to develop a public affairs strategy for the Commission.

Commissioner van Loben Sels commented that he was concerned that the Yolo County counsel was trying to take the position that the Clarksburg Sugar Mill Project was located in the Secondary Zone vs. the Primary Zone. He said he wanted the comment letter on the project to reiterate and protect the Commission's position that the project is located in the Primary Zone. Ms. Fiack responded that this would be noted in the letter.

17. Attorney General's Report

Marian Moe reported on the status of the CALFED litigation. She said that the challenge to the EIR for the CALFED Bay Delta Program was pending in the Third District Court of Appeal. The Court found that the EIR was valid/sufficient; however, the Court also found that the EIR should have examined an alternative that would involve reducing exports from the Delta and the possibility of reducing future population growths in southern California. Ms. Moe stated that CBDA filed a petition for rehearing for change, however the Court made a minor change. CBDA then filed for a petition for review with the California Supreme Court on November 16, 2005 and the Supreme Court has 60 days to decide if it wants to hear the petition for review.

18. Commissioner Comments/Announcements

Commissioner Nottoli commended Linda for her work at the Commission.

19. Adjourn in the Memory of Louise F. Mello

The meeting was adjourned at 8:10 p.m.